IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.02.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

Writ Appeal No.1714 of 2003
and
W.A.M.P. No.1620 of 2006

C.Saradha ... Appellant

vs.

1. The Managing Director,
Tamilnadu Housing Board,
Nandanam, Madras-35.

2. The Executive Engineer /
Administrative Officer,
Anna Nagar Division No.II,
Tamilnadu Housing Board,
Annanagar West, Madras-101.

3. Government of Tamil Nadu,
rep. By its Secretary - Housing,
Fort St. George, Chennai-600 009
(R3 impleaded as
party respondent vide order of
court dated 20.11.2006 made in
W.A.M.P. No.1619 of 2006) ... Respondents

Appeal against the Order of the learned single Judge, dated 04.04.2003, made in W.P. No.10442 of 2003 Writ of Certiorarified Mandamus calling for the entire proceedings of the second respondent in his proceedings No.C.3/9290/02-01, dated 6.2.2003 and quash the same. Consequently, direct the respondents to issue allotment order in favour of the petitioner in so far relates to Plot LIG.159, Nolambur Phase II in Anna Nagar, Mogappair, Madras 101.

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For Appellant : Mr.T.D.Selvan Babu
For R-1 & R-2 : Mr.S.Kasikumar, for Mr.K.Chelladurai.
For R-3 : Mr.K.Elango, Special Govt. Pleader.

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

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The above Writ Appeal is directed against the order of the learned single Judge, dated 04.04.2003, made in W.P. No.10442 of 2003, in and by which, the learned Judge, after finding no merit in the writ petition, dismissed same.

2. Heard learned counsel appearing on either side.

3. It is not in dispute that, during the sale mela that was conducted by the Housing Board from 29.11.2002 to 02.12.2002, Plot LIG 159, Nolambur Phase II in Anna Nagar West, Mogappair, Madras, was offered to the Writ Petitioner. According to the petitioner, pursuant to her participation and offer, she deposited a sum of Rs.5,000/- on 02.12.2002 and another sum of Rs.1,60,000/- on 13.12.2002 towards 25% of the value of the Plot. However, by letter dated 06.02.2003, the 2nd respondent herein informed the petitioner that the Government had not confirmed the sale of G.D.Q. (Government Discretionary Quota) Plot No. LIG-159 at Nolambur Phase II applied by her during the Sale Mela conducted by the Tamil Nadu Housing Board and requested her to return the enclosed refund voucher duly affixing two rupees revenue stamp signed and to surrender the original cash receipts issued by the Board so as to enable them to refund the amount paid by her. The said communication was challenged by filing the writ petition. The learned single Judge, accepting the stand of the Tamil Nadu Housing Board viz., that the said plot was allotted to the Government under Government Discretionary Quota and that, in the absence of confirmation by the Government, the Housing Board cannot accept the offer of the petitioner, dismissed the writ petition.

4. Learned counsel appearing for the appellant contended that, in view of the terms and conditions and in the absence of any specific information/intimation relating to the fact that the plot in question comes within the 15% discretionary quota of the Government, the action of the cannot be justified. He also contended that the petitioner is entitled to allotment order on the principle of 'legitimate expectation'.

5. We verified the terms and conditions of sale. It is true that there is no specific reservation/provision earmarking certain plots for allotment under Government Discretionary Quota. However, learned counsel appearing for the Housing Board, by drawing our attention to G.O. Ms. No.961 Hg. & U.D. Dept. dated 03.12.1993 & Government Letter No.56081/HB.4

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(1)/94-2, dated 22.11.1996, submitted that the allotment committee of the Board is permitted to allot 85% of the plots/flats/houses of the schemes by drawing lots and the balance 15% of units is allotted by the Government under discretionary quota. The impugned letter mentions that the plot in question viz., LIG 159, has been included in the Government Discretionary Quota and that the Government has not confirmed the sale of the said Plot applied by the petitioner. Further, in the same letter, the petitioner was requested to surrender the original cash receipts enabling the Board to refund the amount. It is brought to our notice that, subsequent to the impugned letter, the Government by virtue of the discretionary quota, passed G.O.2D No.278, Housing and Urban Development (Ve.Va5(1) Department, dated 20.11.2003, allotting the said plot LIG 159 in favour of one P.Periasamy, a Social Worker, under 15% discretionary quota. Learned counsel for the Housing Board also produced a copy of the said Government Order. In the light of the same, we are unable to accept the contention raised by the learned counsel for the appellant.

Consequently, writ appeal fails and the same is dismissed. No costs. Connected Miscellaneous Petition is closed. It is brought to our notice that, even though in the impugned letter, the petitioner was asked to surrender the original cash receipts to enable the Housing Board to refund the amount paid by her, till date, she did not comply with the same. The writ appellant is permitted to surrender the original cash receipts to the 2nd respondent. Once the receipts are surrendered, respondents-1 and 2 are directed to refund the deposited amount within a period of two weeks thereafter.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

JI.

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To
1. The Managing Director, Tamilnadu Housing Board,
Nandanam, Madras-35.

2. The Executive Engineer / Administrative Officer,
Anna Nagar Division No.II, Tamilnadu Housing Board,
Annanagar West, Madras-101.

3. The Secretary to the Govt. of Tamil Nadu, - Housing, Fort St. George,
Chennai-9.

+ 1 CC To Mr. T.D.Selvan Babu, Advocate SR NO. 11685

+ 1 CC To Mr. K.Chelladurai, Advocate SR NO. 11447

+ 1 CC to the Government Pleader SR NO 11532

W.A. No.1714 of 2003

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